

REMARKS

Claims 1, 4 and 5 are pending in this application. By this Amendment, claims 1, 4 and 5 are amended. Support for the amendments can be found in the claims previously presented. No new matter is added. Claims 12 and 13 are canceled without prejudice to, or disclaimer of, the subject matter recited in those claims. Reconsideration of this application in view of the above amendments and the following remarks is respectfully requested.

Applicant appreciates the withdrawal of the previous prior art rejections over a combination of U.S. Patent No. 5,733,441 to Ko et al. in view of U.S. Patent No. 5,946,078 to Morimoto et al. Applicant further appreciates the withdrawal of the finality of the previous Office Action in view of the arguments set forth in Applicant's response.

The Office Action, in paragraph 7, rejects claims 1, 4 and 5 under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 4,023,472 to Grunder et al. (hereinafter "Grunder"). This rejection is respectfully traversed.

Because claim 1 is amended to incorporate the features previously recited in now-canceled claims 12 and 13, and further because the §102 rejection over Grunder does not include claims 12 and 13, this rejection should be withdrawn.

The Office Action, in paragraph 9, rejects claims 12 and 13 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,436,562 to DuBose in view of Grunder. This rejection is respectfully traversed with respect to claims 1, 4 and 5 which now incorporate, in claim 1, the features previously recited in claims 12 and 13. Grunder teaches an apparatus for producing a laminar flow. Specifically, Grunder teaches a laminar flow producing means having a blower which passes air to a distributor having a buffer zone with a specific ratio between its volume and cross-sectional area. See Abstract. Grunder includes two mesh screens spaced a small distance apart, each having a mesh opening measuring a certain size so that the air from the blowers pass through the screen meshes to produce a clean, dust-free

laminar flow of air. Grunder is directed at overcoming a shortfall in the prior art in which it is difficult to produce specifically a laminar flow of air to be free of dust particles. See, e.g., col. 1, line 27 - col. 2, line 26 of Grunder. In rejecting claims 12 and 13, the Office Action recognizes that Grunder cannot reasonably be considered to include a fuel cell system. The Office Action instead relies on DuBose and its disclosure of a fuel cell engine stream conditioning system to allegedly render obvious the specific portions of the pending claims, which Grunder certainly cannot be relied upon as teaching. The Office Action concedes that DuBose does not disclose a fluid supply device having a first filter upstream of a flexible tube, a second filter downstream of the flexible tube, a pump upstream of the first filter, and wherein the filter accuracy of the second filter is lower than a filter accuracy of the first filter. Rather, the Office Action relies on Grunder's apparatus for producing a laminar flow of air of a specifically unique construction directed at producing laminar flow in the "dust-free room art," as allegedly overcoming any shortfall in the application of the fuel cell system of DuBose to the subject matter of the pending claims. The Office Action concludes that "it would have been obvious to provide the filter and pump arrangement of the DuBose system with a fluid supply device having a pump upstream of a filter which is upstream of a flexible tube which is upstream of a second filter as taught by Grunder et al. in order to provide an air filter assembly which would provide an additional level of filtration of the air flow." The analysis of the Office Action in this regard fails for at least the following reasons.

Any filtering that occurs in DuBose is provided to, for example, largely filter input ambient air by a filtering device 32 before it is presented to a pump 34 to then be presented, for example, to an enthalpy wheel in which pore sizes of sorbents are chosen to selectively entrap or filter one or more species from the inlet for exhaust streams. See, e.g., col. 12, lines 33-35. It is clearly unreasonable for the Office Action to assert that one of ordinary skill in the art would have modified the flow paths of DuBose with the laminar flow system of

Grunder directed at dust-free rooms for any reason, much less to arrive at the subject matter of the pending claims. It has long been the standard, as set in MPEP §2141.01(A), that a reference in a field of endeavor different from that of an Applicant's may be reasonably pertinent if it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention *in considering his or her invention as a whole*. This long-held tenet was left undisturbed by the court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007). Clearly, the dust-free room system of Grunder is not in Applicant's field of endeavor. Further, Grunder is not directed at any problem that is addressed by the subject matter of the pending claims. There is no suggestion in Grunder, for example, that any particulate matter agglomerates anywhere in the disclosed flexible portions as is suggested by the Office Action. The fact that DuBose does not include any flexible portions, as admitted by the Office Action, would not find the DuBose reference as suffering from any shortfall that is addressed by the subject matter of the pending claims. The *KSR* court explained that "a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. Although common sense directs one to look with care at a patent application that claims as innovation the combination of two known devices according to their established functions, it can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does." (Citation omitted). The strained approach taken by this Office Action in applying a patent directed to clean room technologies to a patent directed at a fuel cell system that would not suffer from the specific shortfall addressed by the subject matter of the pending claims fails to meet the applicable standards.

The *KSR* court confirmed the prior holdings of the Federal Circuit that "rejections on obviousness grounds cannot be sustained by mere conclusory statement; instead, there must

be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F.3d 977 (Fed. Cir. 2006). This standard is simply not met in this Office Action as the alleged articulated reasoning is not supported by any rational underpinning other than the bare assertion that one of ordinary skill in the art would somehow have combined two references directed at specific solutions in widely disparate arts to arrive at a combination of features as set forth in the pending claims.

For at least the foregoing reasons, the combination of all of the features positively recited in independent claim 1 would not have been rendered obvious by a combination of DuBose and Grunder, which are not combinable in the manner suggested by the Office Action. Further, claims 4 and 5 are also patentable over this combination of references for at least their dependence on an allowable base claim, as well as for the separately patentable subject matter that these claims recite.

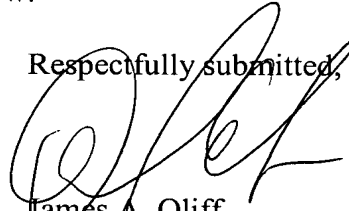
Accordingly, reconsideration and withdrawal of the rejection of claims 1, 4 and 5 over any combination of the currently-applied references are respectfully requested.

This application has been the subject of five rejections now. Each rejection has taken a very strained approach in attempting to render obvious the subject matter of the pending claims. Applicant respectfully requests that any further Office Action that issues regarding this application be subject to supervisory review under the provisions of MPEP §707.02.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1, 4 and 5 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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